

Senate Bill No. 1164

Passed the Senate August 30, 2002

Secretary of the Senate

Passed the Assembly August 29, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 30353 of the Public Resources Code, relating to local coastal programs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1164, Sher. Local coastal programs: costs.

Existing law provides that litigation costs incurred by a local government as a result of the operation of a certified local coastal program may be reimbursed under certain conditions.

This bill would permit litigation costs to be paid to the local government prior to the time that a final judgment is rendered in an action if the Attorney General has intervened in support of the local government's position, the amount paid does not exceed \$500,000, and the amount paid is equal to or greater than 5% of the local government's general revenues as published in the most recent version of "Cities Annual Report" by the Controller. The bill would require that payment of prejudgment costs comply with procedures established by the Executive Director of the Coastal Commission in consultation with the Attorney General, and that the local government reimburse the state from any costs it recovers after a final judgment is rendered in the action.

The people of the State of California do enact as follows:

SECTION 1. Section 30353 of the Public Resources Code is amended to read:

30353. Payment for costs claimed pursuant to this article shall be made only for costs which, but for the operation of a certified local coastal program, would not have been incurred by the claimant local government and if the following criteria are met:

(a) Costs for establishing a regulatory program to implement a certified local coastal program, including costs for the preparation and printing of public information materials, application forms, establishing new procedures, and staff training are payable. The costs specified in this subdivision include initial startup costs incurred over a period not to exceed one year from the date a certified local coastal program has been adopted for implementation by the appropriate local government.



(b) A fixed payment not to exceed ten dollars (\$10) per permit application for any development subject to a certified local coastal program may be claimed and paid. The payment specified in this subdivision is intended to cover general costs, including costs for public notice, notice and submittal of files to the commission, and appearances before the commission.

(c) Other costs of processing and reviewing coastal development permits pursuant to a certified local coastal program shall normally not be eligible for reimbursement because these types of activities should either be incorporated within the routine regulatory process of the local government or, at the discretion of the local government, be paid for from reasonable permit fees. A local government may, however, request payment for increased regulatory costs if it can show that either or both of the following special circumstances apply within its jurisdiction:

(1) In jurisdictions with a population of less than 10,000, the existing regulatory program of the local government is not capable of processing and reviewing additional coastal development permits pursuant to a certified local coastal program and where the increased costs could not reasonably be expected to be covered by permit fees.

(2) The regulatory program included in a certified local coastal program requires the discharge of resource management functions that exceed the level of regulatory review normally required or undertaken by the local government.

(d) Costs for enforcement of regulatory requirements that are directly related to local coastal program implementation, such as ensuring compliance with coastal development permit terms and conditions, are payable, if the enforcement activities are not of a type routinely undertaken or of a type required by law as part of the affected local government's normal regulatory responsibilities.

(e) Litigation costs which, but for the operation of a certified local coastal program, would not have been incurred may be paid. Where an action is brought against a local government and the action states as a principal cause of action the operation of the local government's local coastal program and the local government prevails in the action, litigation costs may be paid to the extent the costs are not assessed against the party bringing the action. Where the local government loses the action primarily on grounds it has



failed to properly carry out its certified local coastal program, litigation costs shall not be paid. In accordance with procedures established by the executive director of the commission in consultation with the Attorney General, litigation costs may be paid prior to the rendering of a final judgment in the action, if the Attorney General has intervened in the action in support of the local government's position, the amount paid does not exceed five hundred thousand dollars (\$500,000), and the amount paid is equal to or greater than 5 percent of the local government's general revenues as published in the most recent version of "Cities Annual Report" by the Controller. The local government shall reimburse the state from any costs recovered after a final judgment is rendered in the action.

(f) If additional planning is required by the commission as a condition of its certification of any local coastal program, costs for the additional planning are payable.



Approved _____, 2002

Governor

